

11 CIV. 4343

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Austin Obodai, an individual and
d/b/a HEPTAD,

Plaintiff,

COMPLAINT AND JURY TRIAL DEMANDED

v.

YouTube LLC, a user-generated site

and

Google Inc., the parent company of
YouTube LLC,

Defendants.

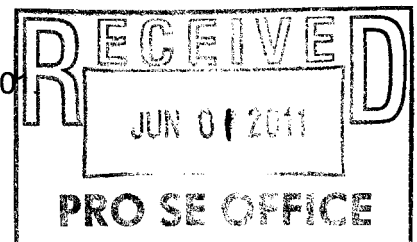
NOW COMES the Plaintiff (representing as "HEPTAD"), complaining as follows against
YouTube LLC and Google Inc. ("Defendants"), inclusive and alleges as follows:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 50

PARTIES

2. HEPTAD is a party to this lawsuit and remains an active sole proprietorship and principally
transacts business from New York.



3. Defendant YouTube LLC, a subsidiary of Google Inc., operates a commercial web site at <http://www.youtube.com> and does business from 901 Cherry Ave, San Bruno, CA, 94066.

4. Defendant Google Inc. owns www.youtube.com and exercises substantial control over the continuing acts of the site and does business from 1600 Amphitheatre, Parkway Mountain View, CA, 94043.

ORIGINAL JURISDICTION

5. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. §1331 and §1338(a).

VENUE

6. Defendants purposefully direct activities at New York residents and these activities have resulted in the copyright infringement alleged herein.

7. The United States District Court for the Southern District of New York is an appropriate venue, pursuant to 28 U.S.C. §1391(b)(2), as events giving rise to the claim for relief are situated in New York.

FACTS

8. Three rights-protected "licensed" works of HEPTAD have been illegitimately reproduced and displayed by YouTube LLC, a site owned by Google Inc, and all the works are copyrightable subject matter, pursuant to 17 U.S.C. §102(a)(1).

9. Plaintiff owns all the three licensed works.

10. On May 20, 2009, the United States Copyright Office (USCO) received Plaintiff's official

submittal for the registration to the works, including the application, the deposit copy and the registration fee (Complete Application), Service Request No. 1-195571107 and attached hereto as Exhibit A is the official deposit shipping slip from the USCO.

11. Plaintiff is the owner of the copyrights in the literary works listed from paragraph 12 to 14 and the online service provider YouTube LLC, which is highly backed financially by Google inc., willfully served copies of the works on unauthorized bases to generate profits.

12. Plaintiff is the owner of the copyright in the literary work originally published on September 21, 2010 and entitled: "How to Calcify Bones" and Defendants served it online on or about May 24, 2011 and Exhibit 1 on Page 1 details the infringement.

13. Plaintiff is the owner of the copyright in the literary work originally published on December 06, 2009 and entitled: "How to Make an Excellent Digital Scrapbook" and Defendants served it online on or about May 24, 2011 and Exhibit 1 on Page 1 shows the infringement.

14. Plaintiff is the owner of the copyright in the literary work originally published on June 16, 2010 and entitled: "How to Gain Good Nutrients" and Defendants served it online on or about May 24, 2011 and Exhibit 1 on Page 1 reveals the infringement.

15. Defendant YouTube LLC received a *valid* electronic DMCA complaint from Plaintiff on May 24, 2011 to perform its duties as a 512(c) service provider.

16. On May 29, 2011, Defendant YouTube LLC intentionally refused to accept the *DMCA-biddable* complaint for no tangible reason and continuously displays Plaintiff's works to prevent Google Inc's continuous profits from the site www.youtube.com from decreasing.

REVELATION OF INFRINGEMENTS

17. Defendants refuse to respect the DMCA and continue to violate subsection 512(c).

18. Plaintiff repeats and reaffirms the complete allegations set forth in paragraphs 8 through 16 above.

19. Plaintiff holds the exclusive right to reproduce all the works which were served on the internet by Defendants on Defendants' website domain, pursuant to title 17 U.S.C. § 106(1).

20. Plaintiff retains the exclusive right to publicly display the works, pursuant to title 17 U.S.C. § 106(5).

21. Plaintiff holds the exclusive right to distribute copies of the works, pursuant to title 17 U.S.C. § 106(3).

22. Plaintiff holds the exclusive right to prepare derivative works based upon the works, pursuant to title 17 U.S.C. § 106(2).

23. Defendants reproduced the works, in derogation of Plaintiff's exclusive rights under title 17 U.S.C. § 106(1).

24. Defendants created unauthorized copies of all the three USCO-protected works and held contempt against Plaintiff's exclusive rights under title 17 U.S.C. § 106(2).

25. Defendants distribute unauthorized reproductions of the works via the site www.youtube.com and neglect Plaintiff's exclusive rights under title 17 U.S.C. § 106(3).

26. Defendants publicly display unauthorized reproductions of the Plaintiff's works at Defendants' website and disregards Plaintiff's exclusive rights under title 17 U.S.C. § 106(5).

27. Defendants have willfully engaged in the copyright infringement of all Plaintiff's licensed works by reproducing, displaying and exploiting them without permission.

28. Defendants have willfully committed direct infringement, vicarious copyright infringement and contributory copyright infringement.

29. HEPTAD did not grant Defendants permission to display, reproduce and exploit the infringed works.

30. If Defendants are not permanently enjoined from further infringement of all the three works, Plaintiff will be irreparably harmed and Plaintiff is thus entitled to primary and non-ephemeral injunctive relief against additional infringement of the works by the Defendants as revealed by title 17 U.S.C. § 502.

PRAYER FOR RELIEF

Plaintiff requests that this Court grants its claim for relief herein as follows:

1. Preliminary and permanently enjoin Defendants and Defendants' employees, agents, officers, partners, servants, attorneys, licensees, successors and all persons acting by, via, through, with, for or under the Defendants, from indirectly or directly infringing the works by using them in any way which conflicts with Plaintiff's rights under Section 106.
2. All financial evidence and documentation connecting in any way to Defendants' use of the works, without excluding information specifically associated with Defendant's infringing web site.
3. Award HEPTAD clear statutory damages for Defendants' willful infringements of the works, pursuant to 17 U.S.C. § 504(c).
4. Award Plaintiff pre- and post-judgment interest in accordance with applicable law; and
5. Grant Plaintiff such other relief as this Court deems appropriate.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 30 day of May 2011.

Respectfully submitted,

Signature of Plaintiff: _____

A handwritten signature in cursive script, appearing to read "A. Smith", written over a horizontal line.

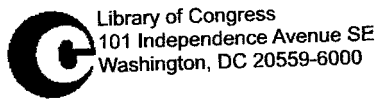
HEPTAD

820 Boynton ave # 6b

Bronx, NY, 10473-4627

EXHIBIT A

EXHIBIT A



Reply to U.S. Copyright Office Correspondence - TX

Case / SR#: 1-195571107
Case Date: 05/20/2009
Title: <http://www.choicehow.com>
Volume:
Number:
Issue Date:

Return this sheet with your reply within 45 days to:

US Postal Service mail only (and only for packages no larger than 12 x 18 x 4 inches) - use this address:

COP/TX. Division Reply
PO Box 71680
Washington, DC 20024-1680

Private carriers (FedEx, UPS, etc.), and for any package larger than 12 x 18 x 4 inches whether USPS or private carrier - use this address:

Library of Congress
Copyright Office –TX
101 Independence Avenue SE
Washington, DC 20559-6222

Packaging: If you send an audiotape, videotape, CD, CD-ROM, DVD, or photograph, use a box rather than a soft container – to avoid damage in the mail screening process.

If you do not reply within 45 days, we will: close this case without processing your registration or notifying you further, and forward your deposit copy under the provisions of the current copyright law. The fee is not refundable.

If you re-apply for registration after the case file is closed, you must send a new application, copy, and fee. The effective date of registration will be based on the new submission.

EXHIBIT 1

EXHIBIT 1

<http://www.youtube.com/user/WastelandDweller>

YouTube - WastelandDweller's Channel

Channel Comments (13)

TheJackjai1 (6 days ago)

Also, gaining good nutrients will not become a problem for you especially when eating well-balanced diets for consecutive years. Malnourished people aren't likely to have access to well-balanced diets if they are located in poor countries around the world. Some Liberians in West Africa are still poor and unable to afford three-course meals.

TheJackjai1 (6 days ago)

Gaining good nutrients through eating foods containing carbohydrates, proteins and fats will be possible when living in a non-starving world. Well, if you are not living in a non-starving world, you will have access to foods most of the time. However, having access to food may not elevate your chances of gaining a healthy body system. Human beings are guaranteed long lives based on the number of foods they can save everyday. Your body system will not become a healthy one if you are constantly filling it with an awful lot of sugary foods, will it? Diabetes is a disease that makes it uneasy for some people to consume foods that contain adequate sugar. You are only going to gain good nutrients if you are substituting steak for carrots. Good nutrients come from only vegetables. Start cooking with vegetables and avoid depending on red meat.

TheJackjai1 (6 days ago)

Nutrients are essentially important and humans need enough of them. Even dogs and cats need to consume foods which contain enough nutrients in order to survive for years. If your pets cannot grow big without being fed foods which contain enough fats, then you certainly need to avoid devaluing essential nutrients. Any man or woman who plans to grow a healthy body system should not underestimate the effectiveness of good nutrients which are likely to be packed inside foods. Essentially, you should be planning to eat foods which contain good nutrients if you want to maintain a very strong body for many years. While some kinds of foods may not make you necessarily strong, they will help you to duck starvation on a daily basis. Check out the essential details below if you want to gain good nutrients in the future.

TheJackjai1 (6 days ago)

Basically, make sure that you are not paying for scrapbooks you create online. Some websites will not hesitate to charge you for using their tools to produce simple scrapbooks which depict images you have taken with your own Sony or Canon digital camera. Using cost-effective methods to design photo albums online will not be infeasible when using a website like Scrapblog. Create a free account on Scrapblog and you will be able to make beautiful digital scrapbooks on it at no cost provided you don't order prints after building them via its artistic builder. Make your own good stickers and photo albums now.

TheJackjai1 (6 days ago)

Making an excellent digital scrapbook by digital means is certainly fun. If you are an avid internet user and want to make excellent digital scrapbooks online, then you need to use the best websites. Not all websites which claim to offer their users opportunities to create elevated-quality photo books and greeting cards or postcards are exactly beneficial. Use websites which allow you to express yourself through creating truly unique digital scrapbooks. Here are some excellent tips on how to make an excellent digital scrapbook online.

TheJackjai1 (6 days ago)

Tips * Drink milk to produce extremely calcified bones if you want to calcify bones you possess. Nowadays, both developed and undeveloped nations that have good GDP levels are filled with cattle or goats. So, increase your consumption of dairy products like cheese and evaporated or homogenized milk. Doing this will allow you to increase your intake of the vital nutrient calcium. You should start consuming good dairy products if you want to calcify your bones and become an athletic person. * Bony or calcareous body parts are very important as they contribute to the physical appearance of humans. You cannot develop calcified bones by failing to remain very mobile. Hardening your bones to a finite level will become a possibility for you if you love exercising your body through doing push-ups and lifting weights. Working out for hours on a daily basis may help you to calcify your bones fully well.

TheJackjai1 (6 days ago)

Calcify degenerative bones by using the best methods so that they can remain fully regenerative. Of course, your biceps brachii muscles and joints or ligaments receive support from your bones. Having strong bones may allow you to utilize your muscles efficiently. Basically, the calcification of your bones is surely important. Men and women must make the best plans to calcify their bones regardless of where they live. If you really want to calcify your bones and strengthen them, then you must not neglect the healthy tips in this article.